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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,706	02/13/2002	Michael Featherby	73498	9800

7590

06/17/2003

Carlton J. Eibl  
Mxwell Technologies, Inc.  
9244 Balboa Avenue  
San Diego, CA 92123

EXAMINER

DANG, PHUC T

ART UNIT

PAPER NUMBER

2818

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/075,706

Applicant(s)

FEATHERBY ET AL.

Examiner

PHUC T DANG

Art Unit

2818

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Application/Control Number: 10/075,706  
Art Unit: 2818

***Election/Restriction***

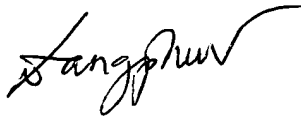
Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Group I, Claims 1-8 and 14-21, drawn to a hermetic seal device, classified in class 257, subclass 680.
- II. Group II, Claims 9-13, drawn to a method of making a hermetic seal device, classified in class 438, subclass 127.

The inventions are distinct, each from the other because of the following reasons:

1. Inventions I and II are related as method of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case unpatentability of the Group II invention would not necessarily imply unpatentability of the Group I invention, since the device of Group I invention could be made by a product different from those of the Group II invention. However, the issues of method and product claims are divergent. Furthermore, there may be some overlap in the searches of the two groups, but there is no reason to believe that the searches would be identical. Therefore, based on the additional work involved in searching and examination of the two inventions together, restriction of distinct inventions is clearly proper.
2. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traverse (37 CFR 1.143).
3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).
4. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Phuc T. Dang whose telephone number (703) 305-1080. The examiner can normally be reached on Monday through Friday from 8:00am to 5:00pm.

Phuc T. Dang <sup>PD</sup>

A handwritten signature in black ink, appearing to read 'Phuc T. Dang', written in a cursive style.

Examiner

Art Unit 2818

June 12, 2003



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

gdc  
5/14/03

Paper No. 10

Fitch, Even, Tabin and Flannery  
120 South LaSalle Street, Suite 1600  
Chicago, IL 60603-3406

MAY 15 2003

In re Application of:	:	
Featherby <i>et al.</i>	:	
Application No. 10/075,706	:	DECISION ON REQUEST TO
Filed: February 13, 2002	:	WITHDRAW FROM RECORD
Attorney Docket No. 73498	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 7, 2003.

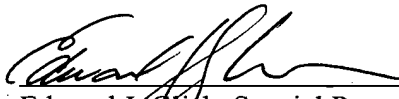
A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of the others. A request to withdraw will not be approved unless at least thirty (30) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Thomas F. Lebens, an attorney of record, on behalf of all attorneys associated with Customer No. 22242 and there is no outstanding Office action requiring a response by the applicant. Accordingly, the request is **approved**.

There is no attorney of record at this time.

As indicated in the request, all future communications from the Office will be directed to the Carlton J. Eibl, at the below-listed address until otherwise notified by the applicant or assignee.

Inquiries related to this decision should be directed to Ed Glick at (703) 308-4858.

  
Edward J. Glick, Special Programs Examiner  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components

cc: Carlton J. Eibl  
Maxwell Technologies, Inc.  
9244 Balboa Avenue  
San Diego, CA 92123

Please type a plus sign (+) inside this box →



PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paper Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	10/075,706	
	Filing Date	Feb-13, 2002	
	First Named Inventor	Featherby, Ph.D., Michael	
	Group Art Unit	2818	
	Examiner Name	N/A	
Total Number of Pages in This Submission	2	Attorney Docket Number	73498

**ENCLOSURES (check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		<b>FAX RECEIVED</b> MAR - 7 2003 <b>TECHNOLOGY CENTER 2800</b>

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	FITCH, EVEN, TABIN & FLANNERY by Thomas F. Lebens
Signature	
Date	MARCH 7, 2003

**CERTIFICATE OF TRANSMITTAL**

I hereby certify that this correspondence is transmitted to the United States Patent and Trademark Office via 703-872-9319 on this date: MARCH 7, 2003	
Type or printed name	Thomas F. Lebens
Signature	
Date	MARCH 7, 2003

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

PTO/SB/83 (01-03)

Approved for use through 11/30/2005. OMB 0651-0035

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**REQUEST FOR WITHDRAWAL  
AS ATTORNEY OR AGENT**

Application Number	10/075,706
Filing Date	Feb 13, 2002
First Named Inventor	Featherby
Art Unit	2818
Examiner Name	N/A
Attorney Docket Number	73498

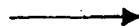
**To: Commissioner for Patents  
Washington, DC 20231**

I hereby apply to withdraw as attorney or agent for the above identified patent application.

The reasons for this request are:

Client has terminated the attorneys associated with the customer Number  
22242 as counsel in the above-identified matter.

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

**CORRESPONDENCE ADDRESS**☐ Customer NumberPlace Customer Number  
Bar Code Label Here

OR

☒ Firm or  
Individual Name Carlton J. Eibl

Address Maxwell Technologies, Inc.

Address 9244 Balboa Avenue

City San Diego State CA Zip 92123

Country USA

Telephone 858-503-3300

Fax 858-277-5854

☒ This request is made on behalf of myself and☐ all the attorneys/agents of record.☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or☒ the attorneys/agents associated with Customer Number

22242

MAR - 7 2003

TECHNOLOGY CENTER 2800

This request is enclosed in triplicate (including any attachments).

Name Thomas F. Lebrons

Signature

Date

MARCH 7, 2003

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.